439.

SUPREME COURT OF THE UNITED STATES.

No. 132.

SIMEON JONES, PLAINTIFF IN ERROR,

vs.

MOSES TRUE, NOAH H. FLANAGAN AND CHARLES CAVENDER.

IN ERROR TO THE SUPREME COURT OF ILLINOIS.

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J. & G. S. Gideon, printers.

STATE OF ILLINOIS, *Sangamon county:*

In the supreme court.

Be it remembered, that on the twenty-first day of December, in the year of our Lord one thousand eight hundred and forty-three, in the clerk's office of the supreme court of the State of Illinois, the following record in appeal was filed by the said Simeon Jones:

STATE OF ILLINOIS, *Macoupin county, ss:*

Pleas held at the court house in the town of Carlinville, within and for said county, before the honorable Samuel P. Lockwood, one of the associate judges of the supreme court, and presiding judge of the first judicial circuit of said State.

Be it remembered, that heretofore, to wit, on the twenty-eighth day of July, A. D. 1843, the following petition was filed in the office of the clerk of the circuit court of said county of Macoupin, and became a part of the records of said court, to wit:

"STATE OF ILLINOIS, *Macoupin county, ss:*

"Simeon Jones, plaintiff, states, that he holds a sealed note on the defendants, Moses True, Noah H. Flanagan, Charles Cavender, in substance as followeth:

"Two years after date, we, Moses True, Noah H. Flanagan, Charles Cavender, jointly and severally, promise to pay Simeon Jones, treasurer of township number seven north, range number eight west, of the third principal meridian, in the county of Macoupin, and State of Illinois, for the use of the inhabitants of the aforesaid township, the sum of one thousand and fourteen $\frac{93}{100}$ dollars, and interest thereon, at the rate of twelve per cent. per annum, from this date until paid, and payable six months in advance; we further promise, that in case additional security for the payment of the aforesaid sum of money and interest, or any part thereof, shall be required, the same shall be given to the satisfaction of the said Simeon Jones, or his successors in office.

"Witness our hands and seals, this the 2d day of April, A. D. 1840.

"MOSES TRUE, [SEAL.]
"NOAH H. FLANAGAN, [SEAL.]
"CHARLES CAVENDER. [SEAL.]

"Yet the same debt remains unpaid; wherefore he prays judgment for his debt, and damages for the detention of the same, together with his costs; and he further prays judgment for interest on the said principal sum, at the rate of twenty per cent. per annum, the defendants having made default in the payment of the said principal sum borrowed at the time the same became due and payable.

"SAMUEL G. BAILEY, *for plaintiff.*

"*Copy of note sued upon.*

"Two years after date, we, Moses True, Noah H. Flanagan, Charles Cavender, jointly and severally, promise to pay Simeon Jones, treasurer of township number seven north, range number eight west, of the third principal meridian, in the county of Macoupin, and State of Illinois, for the use of the inhabitants of the aforesaid township, the sum of one thousand and fourteen $\frac{93}{100}$ dollars, and interest thereon, at the rate of twelve per cent. per annum, from this date until paid, and payable six months in advance; we further promise, that in case additional security for the payment of the aforesaid sum of money and interest, or any part thereof shall be required, the same shall be given to the satisfaction of the said Simeon Jones, or his successor in office.

"Witness our hands and seals, this the 2d day of April, A. D. 1840.

Signed "MOSES TRUE, [SEAL.]
" "NOAH H. FLANAGAN, [SEAL.]
" "CHARLES CAVENDER. [SEAL.]"

Upon which said petition are the following endorsements, to wit:

"The clerk of the Macoupin circuit court will issue a summons in the above entitled cause to the sheriff of Macoupin county, returnable to the next term of said court.

"SAMUEL G. BAILEY, *for plaintiff.*

"Also, issue summons, directed to the sheriff of Madison county, returnable to the next term of the circuit court of Macoupin county.

"SAMUEL G. BAILEY, *for plaintiff.*

"Filed July 28, 1843.

"A. M'KIM DUBOIS, *Clerk.*"

And afterwards, to wit, on the sixteenth day of September, A. D. 1843, the following petition and summons was filed in the office of the clerk aforesaid, and also became a part of the records of said court, to wit:

"STATE OF ILLINOIS, *Macoupin county, ss:*

"Simeon Jones, plaintiff, states, that he holds a sealed note on the defendants, Moses True, Noah H. Flanagan, Charles Cavender, in substance as followeth:

"Two years after date, we, Moses True, Noah H. Flanagan, Charles Cavender, jointly and severally, promise to pay Simeon Jones, treasurer of township number seven north, range number eight west, of the third principal meridian, in the county of Macoupin, and State of Illinois, for the use of the inhabitants of the aforesaid township, the sum of one thousand and fourteen $\frac{93}{100}$ dollars, and interest thereon, at the rate of twelve per cent. per annum, from this date until paid, and payable six months in advance; we further promise, that in case additional security for the payment of the aforesaid sum of money and interest, or any part thereof, shall be required, the same shall be given to the satisfaction of the said Simeon Jones, or his successor in office.

"Witness our hands and seals, this the 2d day of April, A. D. 1840.

"MOSES TRUE, [SEAL.]
"NOAH H. FLANAGAN, [SEAL.]
"CHARLES CAVENDER. [SEAL.]

"Yet the same debt remains unpaid; wherefore he prays judgment for his debt, and damages for the detention of the same, together with his costs; and he further prays judgment for interest on the said principal sum, at the rate of twenty per cent. per annum, the defendants having made default in the payment of the said principal sum borrowed at the time the same became due and payable.

"SAMUEL G. BAILEY, *for plaintiff.*

"STATE OF ILLINOIS, *Macoupin county, ss:*

"The people of the State of Illinois, to the sheriff of Macoupin county, greeting:

"We command you to summon Moses True, Noah H. Flanagan, and Charles Cavender, to be and appear before our circuit court of Macoupin, on the first day of the next term of said court, to be holden at the court house in the town of Carlinville, on the fourth Monday in the month of September, 1843, to answer a certain petition filed against them in our said court by Simeon Jones, of which the above is a copy; and have you then there this writ.

Witness A. McKim Dubois, clerk of said circuit court, and the seal thereof, at Carlinville, this 28th day of July, in the year of our Lord one thousand eight hundred and forty-three. [L. S.]

"A. McKIM DUBOIS, *Clerk.*"

On which said petition and summons are the following endorsements, to wit:

"Served on all the within named defendants, by delivering to each of them a true copy of the within writ.

August 5th, 1843.

"Serving on each with copy each $1 - - - $3
"Travel 60 mile, $3 75. Return writ, 13 - - 3 88

$6 88

"B. T. BURKE, *Shff. M. C.*
"By SAMUEL S. CAKE, *D. S.*

"Filed, September 16th, 1843.

"A. McKIM DUBOIS."

And afterwards, to wit, on the twenty-sixth day of September, A. D. 1843, the following note was filed in the office of the clerk of said court, and became a part of the record of said court, to wit:

"Two years after date, we, Moses True, Noah H. Flanagan, [and] Charles Cavender, jointly and severally, promise to pay Simeon Jones, treasurer of township number seven north, range number eight west, of

the third principal meridian, in the county of Macoupin and State of Illinois, for the use of the inhabitants of the aforesaid township, the sum of one thousand and fourteen $\frac{93}{100}$ dollars, and interest thereon, at the rate of twelve per cent. per annum, from this date until paid, and payable six months in advance. We further promise, that in case additional security for the payment of the aforesaid sum of money and interest, or any part thereof, shall be required, the same shall be given to the satisfaction of the said Simeon Jones, or his successor in office.

"Witness our hands and seals, this the 2d day of April, A. D. 1840.

"MOSES TRUE, [SEAL.]
"NOAH H. FLANAGAN. [SEAL.]
"CHARLES CAVENDER. [SEAL.]"

On which said notes are the following endorsements, to wit:

"Six months of the within note, to wit, the interest paid, April the 2d, 1840.

"SIMEON JONES, *Treasurer.*

"October the 2d, 1840—Received 6 months' interest on the within note.

"SIMEON JONES, *Treasurer.*

"April the 2d, 1841—Received 6 month's interest on the within note.

"SIMEON JONES, *Treasurer.*

"October the 2d, 1841—Received 6 months' interest on the within note.

"SIMEON JONES, *Treasurer.*

"April the 2d, 1842—Received 6 months' interest on the within note.

"SIMEON JONES, *Treasurer.*

"Filed, September 26th, 1843."

"A. M'KIM DUBOIS, *Clk.*

And afterwards, to wit, on the 27th day of September, A. D. 1843, the following plea, demurrer, and joinder, were filed in the office of the clerk of said court, and became a part of the records of said court, to wit:

"In the circuit court of Macoupin county, State of Illinois, September term, 1843.

"MOSES TRUE, NOAH H. FLANAGAN, CHARLES CAVENDER, ats. SIMEON JONES.

"And the said defendants, by Chesnut and Smith, their attornies, come and defend the wrong and injury, when, &c., and say that the said plaintiff ought not to have and maintain his aforesaid action thereof against them, to recover the debt in the said petition mentioned, or any damages for the detention of the same, because they say that the said bond in the said petition mentioned was executed to the plaintiff in

trust for the inhabitants of township seven north, range eight west, in the said county, for and in consideration of an indebtedness to the plaintiff in trust as aforesaid, by the defendants, of the sum specified in said bond, a portion of the fund in said township and range, devoted to the support of schools; that after the maturity of said bond, to wit, on the tenth day of August, 1842, and before the commencement of this suit, at the county aforesaid, they, the said defendants, were ready and willing, and then and there offered, to pay to the said plaintiff the sum of one thousand and fifteen dollars, in bills of the bank of the State of Illinois and its branches, in full discharge of all that was due on said bond; to receive which of the said defendants the said plaintiff then and there refused, &c. The said defendants now bring the said sum in the bills of the bank of the State of Illinois and its branches, so tendered as aforesaid, into court, here ready to be paid to the said plaintiff if he will accept the same. And the defendants aver, that there was no other or further sum, than as above specified, due on said bond on the day of the date of the bond made as aforesaid; and this the said defendants are ready to verify. Wherefore they pray judgment, if the said plaintiff ought to have or maintain his aforesaid action thereof against them for the debt in the said petition mentioned, or any damages for the non-payment of the same.

CHESNUT & SMITH,
Attorneys for defendants.

"SIMEON JONES,
against
MOSES TRUE, NOAH H. FLANAGAN,
and CHARLES CAVENDER.

"The plaintiff comes and says, precludi non, because he says that the matters and things set forth in the said defendants' plea are not sufficient in law to prevent the said plaintiff from having and maintaining his aforesaid action; and he demands the judgment of said court for his debt, and damages for the detention of the same.

BAILY & PALMER, *for plaintiff.*

" Joinder in demurrer.

" CHESNUT & SMITH,
" *Attorneys for defendants.*

On which said plea, &c., is the following endorsement, to wit:

" Filed, 27th of September, 1843.

" A. M'KIM DUBOIS, *Clk.*

And afterwards, to wit, on the 27th day of September, A. D. 1843, being one of the days of a regular term of the circuit court, then being held at the court house in the town of Carlinville, within and for the county of Macoupin aforesaid—present, the honorable Samuel D. Lockwood, presiding judge of said court—the following order was entered, and became a part of the records of said court, to wit:

"SIMEON JONES,
vs.
MOSES TRUE, NOAH H. FLANAGAN, and CHARLES CAVENDER. } On petition and summons.

"Came the defendants by their attorneys, Chesnut and Smith, and filed their plea of tender, and paid into court on said plea one thousand and fifteen dollars, in bills of the Bank of the State of Illinois and branches; whereupon the plaintiff, by his attorneys, Baily and Palmer, filed a general demurrer to said plea, and defendants joined in demurrer; and on argument, the court being sufficiently advised in the premises, overruled said demurrer, and the plaintiff abided by his demurrer. It is therefore considered by the court, that the defendants go hence without day, and that they recover of the plaintiff their costs by them about this suit in this behalf expended. By consent of parties, this cause to be taken to next term of supreme court, simply by filing a full transcript of the record, without any security for costs.

STATE OF ILLINOIS, *Macoupin county, ss:*

I, the subscriber, clerk of the circuit court of the county of Macoupin, State of Illinois, do certify, that the foregoing transcript contains a full, true, and perfect exemplification of the record and proceedings in the above entitled cause.

In witness whereof, I have hereunto subscribed my name, and affixed the seal of said court at Carlinville, this the 2d day of December, A. D. 1843.

[Macoupin county circuit court seal.]

A. M'KIM DUBOIS, *Clk.*

STATE OF ILLINOIS, *Supreme court, ss:*

And now here comes the said plaintiff in error, and says, that in the record and proceedings herein there is manifest error, in the respects following, viz:

1. The court below erred in overruling the demurrer to defendants' plea.
2. The tender set up in the defendants' plea was no bar to the action.
3. The tender was made before the money was due from the defendants to the plaintiff.
4. The court below should have sustained the demurrer to defendants' plea, and rendered a judgment in favor of the plaintiff for the amount due on the note and interest.

For which reasons the plaintiff in error comes and prays the court here, that the said judgment be reversed and set aside, and such further order made as to law appertains.

BAILEY & PALMER,
Attorneys for plaintiff in errors.

In nullo est erratum.

SMITH, *For appellees.*

At a supreme court, began and held at Springfield, on Monday, the eleventh day of December, in the year of our Lord one thousand eight hundred and forty-three, to wit, on Thursday the twenty-first day of December, in the year of our Lord one thousand eight hundred and forty-three, the following order was entered of record on the records of said court:

Present, the honorable Thomas C. Browne, Samuel D. Lockwood, Walter B. Scates, Samuel H. Treat, Richard M. Young, Jesse B. Thomas.

SIMEON JONES, School com., &c.,
vs.
MOSES TRUE et al.

On this day came again the said parties, and the errors herein being joined, this cause was submitted to the court without argument, and the court not being sufficiently advised, took time to consider.

And afterwards, to wit, on Wednesday, the 27th day of December, A. D. 1843, of the December term, A D. 1843, of the said supreme court, the following order was entered of record ou the records of said court:

Present, the honorable William Wilson, chief justice; Thomas C. Browne, Samuel D. Lockwood, Samuel H. Treat, Richard M. Young, John D. Caton, James Shields, Jesse B. Thomas.

SIMEON JONES, treasurer of township number seven north, range number eight west, of the third principal meridian, in the county of Macoupin, and State of Illinois, for the use of the inhabitants of the aforesaid township,
vs.
MOSES TRUE, NOAH H. FLANAGAN, and CHARLES CAVENDER.
} Error to Macoupin.

On this day came again the said parties, and the court having diligently examined and inspected as well the record and proceedings aforesaid as the matters and things therein assigned for error, and being now sufficiently advised of and concerning the premises, for that it appears to the court now here, that neither in the record and proceedings aforesaid, nor in the rendition of the judgment aforesaid, is there any thing erroneous, vicious, or defective, and that that record is no error. Therefore, it is considered by the court, that the judgment aforesaid be affirmed in all things, and stand in full force and effect, notwithstanding the said matters and things therein assigned for error.

And it is further considered by the court that the said defendants in error recover of and from the said plaintiff in error their costs by them in this behalf expended, and that they have execution therefor.

Opinion of the court by Mr. Justice Lockwood.

The facts of this cause are similar to those in the case of Bush, school commissioner of Pike county, vs. Shipman, decided at this term.

Upon the authority of that case the judgment is affirmed with costs.

And afterwards, to wit, on Friday, the 19th day of January, A. D. 1844, of the December term, A. D. 1843, of the said supreme court: the following order was entered of record on the records of said court,

Present, the honorable William Wilson, chief justice; Thomas C. Browne, Walter B. Scates, Samuel H. Treat, Richard M. Young, John D. Caton, James Shields, Jesse B. Thomas.

SIMEON JONES, treasurer, &c.,
vs.
MOSES TRUE et al.

On this day came again the said plaintiff, by J. Gillespie, his attorney, and moved the court that the judgment of affirmance in this behalf rendered be so amended, as to order that this cause be remanded to the circuit court of Macoupin county for further proceedings, and the court having sufficiently advised and considered of the said motion, do overrule the same with costs.

And afterwards, at a supreme court, began and held at Springfield, on Monday, the ninth day of December, in the year of our Lord one thousand eight hundred and forty-four, to wit, on Wednesday, the eighteenth day of December aforesaid.

Present, the honorable William Wilson, chief justice; Thomas C. Browne, Samuel D. Lockwood, Walter B. Scates, Samuel H. Treat, Richard M. Young, James Shields, Jesse B. Thomas, John D. Caton.

The following was entered of record.

SIMEON JONES, treasurer, &c.,
vs.
MOSES TRUE et al.
Error to Macoupin.

On this day came the said plaintiff, by S. G. Bailey, his attorney, and filed his petition to the court, praying the court to file their opinion in this cause, so that the said plaintiff may be enabled to take this cause to the Supreme Court of the United States.

And on the day and year last aforesaid, the said Simeon Jones, by his attorney, presented and filed the following petition.

SIMEON JONES, treasurer, &c,
vs.
MOSES TRUE & al.
Appeal from Macoupin.

Supreme court of the State of Illinois, December term, A. D. 1843.

The act of 1836, authorizing the receipt of bank notes in payment of State and county revenue, and in payment of college, seminary, and school debt and interest, does not apply to this case. See Gale's statute, 580, 633; sec. 1, 624; sec. 3, 627; sections 9, 10, 12, 14.

Or if it does, it is so far void, being repugnant to the Constitution of the United States. Art. 1, sec. 10, Gale's statute, 16, 339; sec. 8, 624;

sections 5, 6, 626; sec. 5, 633; sec. 1, 636; sec. 6, 637; sec. 7, 641; sec. 4, 642; sec. 5.

These statutes authorize the legal and corporate existence of school districts, and the inhabitants of townships, and show the different sources from which they may acquire money and property, viz., donations, taxes, rents, and sales of school lands. As the legislature gives the power to impose taxes, it may direct in what kind of money the taxes shall be paid, but it has no such power over the money due the inhabitants of townships upon contracts.

The Town of Paulet vs. Clark, 3 Peters' Con. R. 408, 418–'9, 421–'4.

Terrett et al. vs. Taylor & al., 3 Peters' Con. Rep. 254, 260–'2; Dartmouth College vs. Woodward, 4 Peters' Con. R. 526, 559, 562, 577, 579; Society for the propagation of the Gospel vs. New Haven, 5 Peters' Con. R. 500, 508–'4.

SAM'L. G. BAILEY,
Attorney for plaintiff.

The court are asked to file their opinion in this cause, to enable the plaintiff to take the case up to the Supreme Court of the United States. And to file the above brief, which formerly belonged to the case.

S. G. BAILEY.

And afterwards, to wit, on Thursday, the nineteenth day of December, in the year of our Lord one thousand eight hundred and forty-four, of the December term of the year aforesaid, the following order was entered of record, on the record of said court.

Present: the honorable William Wilson, chief justice; Thomas C. Browne, Samuel D. Lockwood, Walter B. Scates, Samuel H. Treat, Richard M. Young, James Shields, Jesse B. Thomas, John D. Caton.

SIMEON JONES, treas., &c,
vs.
MOSES TRUE et al.

On this day came again the said parties, and the court having sufficiently advised and considered of the petition filed by the said plaintiff, asking the court to file a further opinion herein, deny the said prayer of the petition.

I, Ebenezer Peck, clerk of the supreme court of the State of Illinois, do hereby certify, that the foregoing pages contain a true and correct copy of the record of the circuit court of Macoupin county, filed in the clerk's office of the said supreme court, and of all the proceedings had thereon in said supreme court.

In testimony whereof I have hereunto set my name, and affixed the the seal of the said supreme court, at Springfield, this nine-
[SEAL.] teenth day of December, in the year of our Lord one thousand eight hundred and forty-four. E. PECK, *Clk. C. C.*

Tran. $8 70
Cer. & seal, 50

$9 20.

SIMEON JONES, treas., &c., vs. MOSES TRUE et al.

Supreme court of the State of Illinois, decided at the December term, 1843.

I hereby certify, that in the above named case there was drawn in question the validity of that part of the statute of the State of Illinois, passed on the 16th January, A. D. 1836, entitled "an Act concerning the payment of the revenue, and for other purposes," declaring the bills of the Bank of the State of Illinois, and branches, should be received in payment of college, school, and seminary debts and interest, on the ground that it was repugnant to the Consitution of the United States, and that the decision of the court was in favor of the validity of said statute.

WILLIAM WILSON.
Chief justice of the supreme court of Illinois.

To the honorable John McLean, associate justice, &c.

The petition of Simeon Jones, who respectfully presents and shows to your honor, that, at the December term, 1843, of the supreme court of the State of Illinois, a judgment was rendered against him in an action which he brought against Moses True, Noah H. Flanagan, and Charles Cavender, as will more fully appear by a copy of the proceedings and records in said cause, herewith exhibited.

The said Simeon Jones assigns for error, in the rendition of said judgment—

1. That the supreme court of the State of Illinois decided the State law therein mentioned to be constitutional

2. The rendition of the judgment set forth in said record.

Your petitioner respectfully suggests, that the points so ruled by the court against him are points of great importance and general interest. Wherefore, he prays your honor will direct that a writ of error be allowed and issued, under *to* terms and upon the conditions prescribed by law.

SIMEON JONES.
By A. T. BLEDSOE,
For pl'ffs.

UNITED STATES OF AMERICA, *ss:*

[SEAL.] The President of the United States, to the honorable the judges of the supreme court of the State of Illinois, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between Simeon Jones, treasurer of township number seven north, range number eight west, of the third principal meridian, in the county of Macoupin, and

State of Illinois, for the use of inhabitants of the aforesaid township, plaintiff in error, and Moses True, Noah H. Flanagan, and Charles Cavender, defendant in error, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Simeon Jones, treasurer aforesaid, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and forty-four.

Signed, WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Allowed by
Signed, JOHN McLEAN,
Justice Supreme Court U. S. and 7th circuit.

20 Dec., 1845.

The United States of America, to Moses True, Noah H. Flanagan, and Charles Cavender, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the Supreme Court of the State of Illinois, wherein Simeon Jones, treasurer of township number seven north, range number eight west, of the third principal meridian, in the county of Macoupin, and State of Illinois, for the use of the inhabitants of the aforesaid township, is plaintiff in error, and you are defendants in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error,

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as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable R. B. Taney, chief justice of the Supreme Court of the United States, this 20th day of December, in the year of our Lord one thousand eight hundred and forty-five.

JOHN McLEAN,
Justice Sup. Court U. States.

STATE OF ILLINOIS, *Macoupin county, ss:*

In the circuit court of said county, October term, 1846.

Personally came Simeon Jones, in open court, before the undersigned, clerk of said court, and made oath that, on the twenty-fifth day of July, A. D. 1846, he served the within notice and citation upon each of the within named persons, to wit, Moses True, Noah H. Flanagan, and Charles Cavender, to wit, at the county of Macoupin aforesaid, by delivering to each of said persons a true copy of said citation.

SIMEON JONES.

Sworn to and subscribed by the said Simeon Jones, before me, in open court.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court, at Carlinville, this the seventh day of October, A. D. 1846.

[L. S.]

A. McKIM DUBOIS,
Clerk of said court.

Filed 18th October, 1846.